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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,526	03/27/2004	Julian James Orbach	403104-A-01-US (Orbach)	1176
47523	7590	12/07/2006	EXAMINER	
JOHN C. MORAN, ATTORNEY, P.C. 4120 EAST 115 PLACE THORNTON, CO 80233-2623			DOAN, KIET M	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/810,526

Applicant(s)

ORBACH, JULIAN JAMES

Examiner

Kiet Doan

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 07 November 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See office action.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

  
**JOSEPH FEILD**  
**SUPERVISORY PATENT EXAMINER**

### **DETAILED ACTION**

This office action is response to Remarks file on 11/07/06.

The office making suggestion on 11/22/2006 to help application expedite.

However, applicant's Rep. John Moran denial the suggestion.

### ***Response to Arguments***

Applicant's arguments filed 11/07/2006 have been fully considered but they are not persuasive.

In response to applicant's argument in **claim 1** that reference does not disclose or suggest "receiving a time specifying the delay from the user after the incoming call is received; inserting the time into a predefined message; and transmitting the predefined message that is selected by the user to the calling party".

Examiner respectfully disagrees, in Cronin (No. 6,216,016) reference teaches "receiving a time specifying the delay from the user after the incoming call is received; inserting the time into a predefined message; and transmitting the predefined message that is selected by the user to the calling party" (C1, L36-61, C4, 45-45-54, C5, L1-60 teach the portable telecommunication device generating waiting message to the calling party and will be answer in short period time which means as receiving a time specifying the delay from the user after the incoming call is received, further when receiving call, the predefined message selected by the user are sent such as "please, wait a moment..." and sent to the caller wherein contain time of every 20 or 30 second are transmitted so the caller have an idea about the specifying time delay).

Therefore, examiner interpreted "receiving a time specifying the delay from the user after the incoming call is received; inserting the time into a predefined message; and transmitting the predefined message that is selected by the user to the calling party" as broadest reasonable interpretation and it is proper.

Claims 23, 24, 26, 28, 29, 45, 46, 48, 50, 50, 4, 6, 7, 11, 60 are rejected same reasons in Final office action

In response to applicant's argument in **claim 3** that reference does not disclose or suggest "terminating the incoming call after transmission of the message".

Examiner respectfully disagrees, in Parson (US 6,704,565) reference teaches "terminating the incoming call after transmission of the message" (C2, L60-67, C3, L5-9 teach wireless phone No.300 terminating after leaving message which means as terminating the incoming call after transmission of the message).

Therefore, examiner interpreted "terminating the incoming call after transmission of the message" as broadest reasonable interpretation and it is proper.

In response to applicant's argument in **claim 12** that reference does not disclose or suggest "the answering of an incoming call upon a predefined amount of movement of the handset being detect".

Examiner respectfully disagrees and the rejection is base on claim language and the limitation of claim, therefore Coombes (No. 2004/0198461) teaches "answering the incoming call by the wireless handset in response to one of at least an input from the

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user (Abstract, Paragraphs [0008], [0012] teach answering the incoming call by the user) or a predefined amount of movement of the wireless handset when the telecommunication terminal is not engaged in another call".

Therefore, examiner interpreted "answering the incoming call by the wireless handset in response to one of at least an input from the user" as broadest reasonable interpretation and it is proper.

Claims 13-18, 34-35, 37-40, 56 are same rejection reasons in Final office action

Claims 8, 10-11, 19, 20-22, 30, 32, 33, 36, 41-44, 52, 54, 55, 57 and 58 are same rejection reasons in Final office action.

### ***Conclusion***

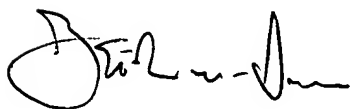
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiet Doan whose telephone number is 571-272-7863.

The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Kiet Doan  
Patent Examiner



JOSEPH FEILD  
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